

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2003-0017
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
HEWLETT-PACKARD COMPANY, 640 PAGE MILL ROAD
PALO ALTO, SANTA CLARA COUNTY**

This Complaint assessing Mandatory Minimum Penalty (MMP) pursuant to Water Code section 13385(h) is issued to Hewlett-Packard Company (hereinafter Discharger) based on a finding of one serious effluent violation of Order No. 99-051, as amended by Order No. R2-2002-0062, NPDES Permit No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit).

The Executive Officer finds the following:

1. The Regional Water Quality Control Board (Regional Board) adopted the VOC General NPDES Permit on July 21, 1999, and amended this Permit on June 19, 2002. The Discharger applied for and received a letter dated November 24, 1999, authorizing the discharge of treated groundwater under the VOC General NPDES Permit.
2. The VOC General NPDES Permit prohibits the discharge of effluent containing Vinyl Chloride (VC) with concentrations exceeding the 0.5 microgram per liter (ug/l) effluent limit.
3. The Discharger submitted a report dated December 12, 2001. According to this report, effluent samples collected from the treatment facility on the dates listed in the table below contained VC at concentrations that exceeded its corresponding instantaneous maximum limit. The Discharger reported no other exceedances of effluent limitations during the six-month periods before and after the dates of these violations.

Sample No.	Test Date	Regulated Compound	Test Results (ug/L)	NPDES Limit (ug/L)	Limit Exceedance	MMP
1	11/27/01	VC	0.72	0.5	44%	\$3,000
2	12/6/01	VC	0.56	0.5	12%	0
Definitions: VC = Vinyl Chloride					Total:	\$3,000

4. Water Code Section 13385 requires the Regional Board to assess an MMP of \$3,000 for the following violations at this facility:
 - a. Serious NPDES violations (Section 13385(h)(1)): A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. VC is considered a Group II pollutant. Sample 1 test result indicates a serious violation.

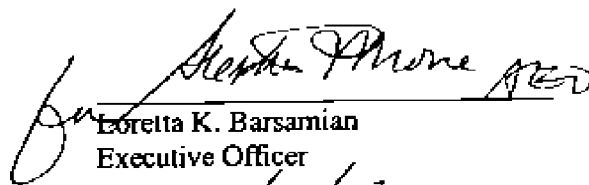
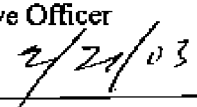
- b. NPDES violations (Section 13385(i)(1)): These violations occur whenever the Discharger exceeds an effluent limitation four or more times in any period of six consecutive months, except that the requirement to assess the MMP shall not be applicable to the first three violations. In this case both samples 1 and 2 are violations in this category. However, since the total number of violations during the six months periods before or after the dates of these violations is less than four, no MMP is assessed under Water Code Section 13385(i)(1).
5. The Discharger committed one serious violation during the November 27, 2001, through December 6, 2002, period. The total amount of the MMP for this serious violation is \$3,000. Section 13385 allows the Discharger to spend the \$3,000 MMP on a supplemental environmental project (SEP).
6. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

HEWLETT-PACKARD COMPANY IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed an MMP in the amount of \$3,000 that will be suspended if the Discharger funds an acceptable SEP Project in the amount of \$3,000.
2. The Regional Board will hold a hearing on this Complaint on April 16, 2003, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box. By doing so, the Discharger will either pay the full penalty of \$3,000 or submit an acceptable SEP proposal in an amount of \$3,000 by March 24, 2003. Any SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount. All payment, including any money not expended for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
3. The signed waiver becomes effective the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.

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4. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed penalty, or whether to refer the matter to the Attorney General for recovery of the civil liability.


Loretta K. Barsamian
Executive Officer

Date

WAIVER OF HEARING FORM

(The signed waiver becomes effective the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

☐ Waiver of the right to a hearing and agree to make payment in full.

By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2003-0017 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, by March 24, 2003. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

☒ Waiver of the right to a hearing and agree to undertake a SEP.

By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No R2-2003-0017 and to complete a supplemental environmental project (SEP) in lieu of the suspended penalty in an amount of \$3,000. I also agree to submit the \$3,000 SEP proposal by March 24, 2003. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty within thirty days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the mandatory minimum penalty (MMP) proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

Jonathan Bauer
Name (print)

3/21/03
Date

[Signature]
Signature

Environmental Affairs Manager
Title/Organization